

TITLE 6

Public Works

Chapter 1	Grades
Chapter 2	Streets and Sidewalks
Chapter 3	Driveways
Chapter 4	Trees and Shrubs

Title 6 ► Chapter 1

Grades

- 6-1-1** Establishment of Grades
- 6-1-2** Alteration of Grade Prohibited
- 6-1-3** Regulation of Underground Utilities

Sec. 6-1-1 Establishment of Grades.

- (a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by resolution by the Common Council, upon the recommendation of the Director of Public Works, and the same recorded by the City Administrator in his/her office. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.
- (b) **Sidewalk Grades.** Whenever a street shall be improved for the first time or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction shall be done by the owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Common Council, or its designee, shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.

State Law Reference: Sections 62.14(7) and 62.16, Wis. Stats.

Sec. 6-1-2 Alteration of Grade Prohibited.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the City of Amery by any means whatsoever unless authorized or instructed to do so by the Common Council or Director of Public Works. All such alterations of grade shall be recorded in the office of the City Administrator.

Sec. 6-1-3 Regulation of Underground Utilities.

- (a) **Elevation.** The grade or elevation of all underground construction in public terraces or other public property shall be a minimum of three (3) feet below the established grade of the street, alley, park, public property or easement. The three (3) feet shall be measured between the top of the established grade and the top of the underground construction.
- (b) **Approval of Location.** The location of any and all such underground construction must have the approval of the Director of Public Works.
- (c) **Filing Plans.** Complete plans for any such construction must be filed with and be approved by the Director of Public Works before construction can begin.
- (d) **Inspection.** On request of the Director of Public Works, the utility company must provide opportunity for City officials to check any construction before it may be covered.
- (e) **Conflict with Other Utilities.** If the grade or elevation herein set for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction at the election of the Director of Public Works, and in accordance with its directions and specifications.
- (f) **Establishment of Grade.** At the request of the utility company, the Director of Public Works shall, at the City's expense, give the utility company an established grade on any streets, alleys, public parks or easements where it proposes to install underground utilities.
- (g) **Emergency.** In case of an emergency, when immediate action is necessary in order to protect life or property, the utility company may proceed with underground construction subject to obtaining the approval of such work by the Director of Public Works as soon thereafter as is reasonably possible.
- (h) **Restoration of Surface.** In the event of any such underground construction, the utility company shall leave the surface of the ground, or road, in the same condition as before said work was commenced, and in the event of its failure so to do, the City may proceed to place the surface of the ground or street in such condition at the utility company's expense. Such work shall comply with the provisions of Sections 6-2-3 and 6-2-4.
- (i) **Non-Relief from Obligations.** Compliance with this Section does not relieve the utility company from any responsibility of any kind whatsoever by reason of the widening of the travelway, or any other improvements which may become necessary; nor does it relieve it from any liability of any kind or nature whatsoever. Compliance with this Section shall not relieve the utility company from the responsibility or obligation of removing, relocating or moving any of its mains, pipes or property due to the opening, widening or improving of streets, or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

Title 6 ► Chapter 2

Streets and Sidewalks

6-2-1	Removal of Rubbish and Dirt from Sidewalks
6-2-2	Construction and Repair of Sidewalks and Curb and Gutter
6-2-3	Curb and Gutter Construction
6-2-4	Excavations of Streets, Alleys, Public Ways and Grounds
6-2-5	Regulations Governing Excavations and Openings
6-2-6	Obstructions and Encroachments
6-2-7	Street Privilege Permit
6-2-8	Snow and Ice Removal; Depositing and Plowing Snow Upon Public Streets
6-2-9	Terrace Areas
6-2-10	Vaults
6-2-11	Requests for Improvements
6-2-12	Unlawful Dumping on Streets
6-2-13	Street Numbers
6-2-14	Obstruction of Public Ditches
6-2-15	Use and/or Lease of City Equipment and Services
6-2-16	Bidding of Public Construction Projects
6-2-17	Dirt and Debris on Streets
6-2-18	Damages to Streets and Public Property
6-2-19	Adoption of State Statutes Concerning Roads
6-2-20	Grass Clippings
6-2-21	Special Event Street Vending Permit

Sec. 6-2-1 Removal of Rubbish and Dirt from Sidewalks.

No owner or occupant shall allow the sidewalk abutting on his/her premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Common Council, or its designee, the City may cause the same to be done and report the cost thereof to the City Administrator who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Sec. 66.0627, Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

Sec. 6-2-2 Construction and Repair of Sidewalks and Curb and Gutter.

(a) Construction and Repair Procedures.

- (1) **Construction and Repair Regulated.** No person, whether owner, builder or contractor, shall build any new sidewalk and/or curb and gutter or repair or reconstruct, or cause to be built, repaired or renewed any existing sidewalk and/or curb and gutter contrary to the provisions of this Chapter.
- (2) **Standards.** The Common Council may determine that sidewalks and/or curb and gutter be constructed and establish the width, determine the material and prescribe the method of construction of standard sidewalks and/or curb and gutter pursuant to this Section. The Common Council shall bid and award contracts for all sidewalk and/or curb and gutter construction and reconstruction projects.

(b) Cost of Sidewalks and Curb and Gutter.

- (1) **New Sidewalks and Curb and Gutter.** Sidewalks required in new subdivisions and developments shall be paid for by the land divider pursuant to Title 14 of this Code of Ordinances. New sidewalks, curbs and gutters constructed in existing areas of the City shall be paid for by adjacent property owners.
- (2) **Definitions.** The following definitions shall be applicable in this Section:
 - a. When one-quarter or less of the sidewalk or curb and gutter frontage along a parcel is determined by City officials to be in a state of disrepair requiring replacement, such work is classified as a "repair".
 - b. When one-quarter or more of the sidewalk or curb and gutter frontage along a parcel is determined by City officials to be in a state of disrepair requiring replacement, such work is classified as "reconstruction".
- (3) **Corner Lots.** For purposes of assigning a landowner's respective share of costs under this Section, an owner with a corner lot shall only be assessed or billed sidewalk and/or curb and gutter repair or reconstruction costs for the shortest frontage of his/her corner lot.
- (4) **Repair and Reconstruction Decisions.**
 - a. The Director of Public Works or designee shall inspect the sidewalks and/or curb and gutter within the City of Amery and recommend repairs and/or reconstruction to the Public Works Committee and Common Council by the 15th day of May of each year. Sidewalks shall be located in such places as designated by the Common Council upon the recommendation of the Public Works Committee. No person shall remove any sidewalk without the permission of the Director of Public Works.
 - b. When a decision is made to lay, remove, reconstruct or repair a sidewalk and/or curb and gutter, a copy of such Council action shall be served upon the owner or his/her agent of each parcel of land in front of which work is ordered pursuant

to Sec. 66.0907(3)(c), Wis. Stats., if the cost exceeds Two Hundred Dollars (\$200.00).

(5) **Repairs; Payment.**

- a. Payment for repairing a sidewalk and/or curb and gutter shall:
 1. Be made by the abutting landowner.
 2. If the cost exceeds Two Hundred Dollars (\$200.00) the property owner shall have until December 31 of the following year to pay his/her share of the cost.
 3. If the cost of such repair is One Hundred Dollars (\$100.00) or less, the property owner's share must be paid in full within the same calendar year that the work is completed.
- b. The City of Amery shall keep an accurate account of the expenses of laying, removing, reconstructing or repairing sidewalks and/or curb and gutter in front of each parcel and shall mail a bill to such property owner upon completion of the work.
- c. Any repair cost not timely paid by the property owner as set forth in Subsection (b)(2)c above shall be entered on the tax roll as a special tax against such real estate pursuant to Sec. 66.0907(3)(f), Wis. Stats.

(6) **Reconstruction; Payment.** Special assessments shall be levied against affected properties for sidewalk and/or curb and gutter reconstruction projects. Such special assessments shall be payable in annual installments over a five (5) year period along with interest as established by the Village Board.

(7) **Assessment a Lien.** Said special assessment shall remain a lien on the premises until paid in full and shall be entered on the tax roll as a special tax as above provided and failure to pay when due shall result in the whole balance being immediately due and payable and collectible as a delinquent tax against the above described property and that all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such special assessment.

(c) **Sidewalk Permit Required.** No person shall hereafter lay, remove, reconstruct or repair any public sidewalk within the City of Amery unless he/she is under contract with the City to do such work or has obtained a permit therefor from the Director of Public Works or his/her designee at least three (3) business days before work is proposed to be undertaken. A fee shall be charged for such permits. Denial of such permits may be appealed to the Common Council.

(d) **Standard Specifications for Sidewalk.**

- (1) **General.** Concrete sidewalk construction shall meet the specifications and provisions set forth in this Section and shall be constructed in locations and to line and grade as established by the City. All sidewalks constructed in the City shall conform to the line and grade established by the ordinances or resolutions of the City. Where no grade has been established as ascertained by the records, the City Engineer shall

- prepare and report a grade for the approval of the Common Council; and, when the same has been established, the City Engineer shall stake out the sidewalk as ordered by the Common Council or Public Works Committee. No sidewalk shall be laid under the provisions of this Section until a grade therefor has been established by the Common Council.
- (2) **Subgrade.** All earth, dirt and material shall be removed to a depth, not less than eight (8) inches, ten (10) inches across private driveways, below the grade line; and the space shall be filled with crushed stone, sand or gravel. The base shall be left four (4) inches thick after being tamped, with the stone or gravel to be not larger than one and one-half (1-1/2) inches in diameter and to be free from dirt, dust and foreign matter. Soft, porous and unsuitable subgrade material shall be removed and replaced with sand, gravel, or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed. On embankments, the subgrade shall extend at least one (1) foot beyond each edge of the sidewalk.
 - (3) **Concrete.** The minimum quantity of cement per cubic yard shall be six (6) sacks of ninety-four (94) pounds each. Concrete shall be mixed for at least one (1) minute. Gravel shall be of good quality and washed. Concrete shall test three thousand (3,000) pounds compression in twenty-eight (28) days. (DOT 501, Wis. Adm. Code).
 - (4) **Forming.** Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. Concrete shall be placed in the forms on a moist subgrade, deposited just above the finished grade and consolidated and spaded sufficiently to bring the mortar to the surface and to prevent honeycombing. It shall then be struck off level with the top of the forms and finished with wooden flats. Forms shall be securely fastened, staked, braced and held firmly to required line and shall be sufficiently tight to prevent leakage of mortar, and all forms shall remain in place for twenty-four (24) hours after pour.
 - (5) **Jointing, Floating and Finishing.** Soon after screening and while the concrete is still plastic, the surface shall be floated with wood, cork or metal floats or by a finishing machine. At all places where the sidewalk intersects another sidewalk or curb-line, a one-half (1/2) inch expansion joint shall be placed. Transverse expansion joints of one-half (1/2) inch thick and four (4) inches wide and five (5) feet long or premolded material shall be located every thirty (30) feet. Sidewalks must be marked off to make blocks five (5) foot square and be at right angles to the parallel lines. Any new sidewalk adjoining an old sidewalk or a sidewalk which abuts curb and gutter shall have one-half (1/2) by four (4) inch expansion joints of premolded material.
 - (6) **Slope.** All forms must be approved by the Director of Public Works or his/her designee before concrete is poured. To provide adequate drainage, the sidewalk shall slope toward the curb at a minimum rate of one-half (1/2) inch per foot of width of

- sidewalk. All joints and edges shall be finished with a one-fourth (1/4) inch radius edging tool. Sidewalks shall be constructed within the limits of the street, and unless otherwise specifically indicated, there shall be a one (1) foot strip of street property left between the property line and the edge of the sidewalk.
- (7) **Width and Thickness.** Residential walks shall be a minimum of five (5) feet in width and not less than four (4) inches thick, or shall match existing sidewalk width in that block. However, in driveway approaches, the minimum sidewalk thickness shall be six (6) inches. Such sidewalks shall have a grade one (1) inch higher than the adjacent curb on the curb side of the sidewalk. All such sidewalks shall be constructed eight (8) inches from the adjacent lot line. In the case of a laydown type curb, the pitch shall be one-half (1/2) inch per foot from the curb in the parkway to the sidewalk with a three (3) inch minimum. Sidewalks in front of commercial or industrial establishments shall have a width as determined by the Common Council and be five (5) inches thick, except within driveway approaches where the minimum thickness shall be seven (7) inches.
- (8) **Finishing.** The concrete shall be struck off true to grade, finished smooth and given a broom finish in transverse direction. Edges and joints shall be given a finish with a one-quarter (1/4) inch radius edging tool. Dry cement shall not be spread on a wet surface to take up excess water. Finishing operations shall be delayed until water has disappeared. No tool marks shall be left on exposed surfaces. In case of rain, the walk shall be covered to protect the surface from being damaged. Walks shall be kept free from all traffic at normal temperatures for forty-eight (48) hours and in cold weather [below fifty (50) degrees F.] for ninety-six (96) hours.
- (9) **Curing and Drying.** As soon as any of the concrete work herein before mentioned has been finished and hardened sufficiently to prevent excessive marring of the surface, it shall be cured and protected against rapid drying. Failure to comply with this requirement shall be deemed sufficient cause for suspension of the work. Curing shall be accomplished by the "Impervious Coating," "Wet Fabric" or "Paper" methods. For impervious coating or membrane curing, only those materials meeting requirements of ASTM Spec. C156-44T, "Method of Test for Efficiency of Materials for Curing Concrete" shall be used. Said specifications are hereby adopted by reference as if fully set forth herein.
- (10) **Cold Weather Requirements.** When the temperature is less than forty (40) degrees F., all concrete placed in the forms shall have a temperature between fifty (50) degrees F. and seventy (70) degrees F. and shall meet the requirements as per Wisconsin Department of Transportation specifications for cold weather concrete.
- (11) **Minor Repairs.** Nothing in this Section shall apply to minor repairs, the cost of which does not exceed Two Hundred Dollars (\$200.00); such repairs may be made at the direction of the Director of Public Works without notice, and the cost thereof may be charged to the abutting property owner in the same manner as provided in this Section for major repairs.

- (e) **Repair or Replacement of Defective or Damaged Sidewalks.** The Common Council or Public Works Committee may order at any time repair or removal and replacement of any sidewalk which is unsafe or which is damaged by the acts of the property owner or his/her agents. The Common Council or its designee shall repair or construct such sidewalk and the City Administrator shall enter the total cost thereof upon the tax roll as a special tax against said lot or parcel of land pursuant to Subsection (b) above. If an emergency situation exists which is caused by a sidewalk in need of repair, the Common Council or its designee shall immediately direct the property owner to immediately make repairs. The Common Council shall determine that any sidewalk which is unsafe, defective, or insufficient, be repaired or replaced with a sidewalk in accordance with this Section. The existence of any one or more of the following characteristics shall determine whether a sidewalk is defective, in need of immediate maintenance, or insufficient:
- (1) One (1) inch or more vertical differential at any point, between adjacent individual sidewalk sections.
 - (2) One and one-fourth (1-1/4) inch horizontal distance between adjacent individual sidewalk sections.
 - (3) Deterioration to the surface on any one single section of sidewalk to a vertical depth of one (1) inch or more.
 - (4) Contains grass or other vegetation in cracks which is one (1) inch or more in height.
- (f) **Illegal Sidewalks.** No sidewalk which shall be constructed contrary to the provisions of this Section shall be considered a legal sidewalk and the same may be ordered to be replaced with a legal sidewalk and with one that is in conformity with this Section, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located.

State Law Reference: Sec. 66.0907, Wis. Stats.

Sec. 6-2-3 Curb and Gutter Construction.

All cement curb and gutter hereafter rebuilt or constructed in the City of Amery shall be constructed according to the following specifications:

- (a) **Establishment.** No curb and gutter shall be worked until the grade thereof has been established according to the records on file in the office of the City Administrator. No person shall alter the grade of any curb and gutter within the City of Amery by any means whatsoever, unless authorized or instructed to do so by the Common Council or the Director of Public Works.
- (b) **Cost.** The cost of curb and gutter construction, reconstruction or repair shall be as billed or assessed to the abutting property owner, pursuant to Section 6-2-2(b).
- (c) **Permit Required.** No person shall hereafter lay, remove, replace, or repair any curb and gutter within the City of Amery unless he/she is under contract with the City to do such

work or has obtained a permit therefor from the Director of Public Works at least three (3) days prior to the proposed construction. No fee shall be charged for such permit.

- (d) **Specifications.** All curb and gutter within the City of Amery hereafter shall be repaired, rebuilt and constructed in accordance with Section 6-2-2(d). Curb ramping shall conform to the standards in Sec. 66.0909, Wis. Stats.

State Law Reference: Sec. 66.0909, Wis. Stats.

Sec. 6-2-4 Excavations of Streets, Alleys, Public Ways and Grounds.

(a) **Permit Required.**

- (1) **Permit to Be Obtained.** No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ditch, public ground, public sidewalk or City-owned easement within the City of Amery without a permit therefor from the City Administrator or Director of Public Works.
- (2) **Fee.** The fee each application for a street opening permit shall be as prescribed in Section 1-3-1, plus any actual City expenses. Applications may be made for multiple street openings on one (1) application form; however, each opening must be listed at the time the application is submitted to the Director of Public Works for approval. Permit fees shall be paid to the Administrator who shall issue a receipt therefore. If the street opening is made prior to the receipt of an approved street opening permit from the Director of Public Works, the application and review fee shall be as prescribed in Section 1-3-1, plus any actual City expenses.
- (3) **Execution of Permit.**
 - a. Permits will show the exact location of the work as to street or house number and the direction and length the trench will run.
 - b. Permits will be issued only for the date and time specified, should digging take place other than the time indicated, the permit must be re-issued so all utilities will know of the new time.
- (4) **Permits for Extensive Digging.** When any utility will be doing any extensive digging, a blanket permit may be issued; however, the party doing the work must notify all other utilities concerned as to the location and time that work will take place so that the others may locate their property.
- (5) **Fee; Emergency Excavation.** In the event of an emergency excavation for the protection of property, life, health, or safety, there shall be no permit fee (except any actual City expenses shall be charged to the permittee) provided the application for the street opening permit is filed with the Director of Public Works within two (2) regular business days of the excavation in accordance with Section 6-2-4(a). If the permit application for the emergency excavation is not filed within two (2) regular

business days, the application and review fee shall be as prescribed in Section 1-3-1, plus any actual City expenses.

- (6) **Surcharge.** In addition to any permit fees or City expenses, a surcharge shall be levied for any street opening which is in, or disturbs the paved portion (final surface) of any public street, public alley, public way, public ground, public sidewalk or City-owned easement within the City of Amery. The surcharge shall be determined as follows:

Age of the Final Paving	Surcharge
New pavement to one (1) year	5 times the permit fee
1 year to 2 years	4 times the permit fee
2 years to 3 years	3 times the permit fee
3 years to 4 years	2 times the permit fee
4 years to 5 years	1 times the permit fee
More than 5 years	No surcharge

- (b) **Application for Permit.** The application for a permit shall be in writing an designed by the applicant or his/her agent. The applicant shall submit to the City Administrator or Director of Public Works, at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The City Administrator or Director of Public Works shall determine if sufficient information is submitted.
- (c) **City Work Excluded.** The provisions of this Section shall not apply to excavation work under the direction of City departments or employees or to contractors performing work under contract with the City necessitating openings or excavations in City streets.
- (d) **Validity of Permit.** Permits shall be valid for a period of thirty (30) days from the date of approval, except as provided for under Section 6-2-4(h) for pavement replacement.
- (e) **Renewal of Permit.** If operations have begun under an approved permit and will continue beyond the thirty (30) day validation period, the permittee shall apply for a thirty (30) day permit renewal by written request to the City Administrator or Director of Public Works. Permit renewals shall be issued at the discretion of the City Administrator or Director of Public Works.
- (f) **City Standards.**
- (1) All street work shall be performed in accordance with the current standard specifications for street openings found in this Section and Section 6-2-5. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage to standards prescribed in Section 6-2-2.
 - (2) No placement of utility lines is permitted within ten (10) feet of hydrants or valves.
 - (3) The City reserves the right, at any time during street excavation or construction, to require that utilities be moved or replaced at the owner's expense.

- (4) All utility lines shall be a minimum of thirty-six (36) inches in depth in City right-of-ways.
- (g) **Insurance Required.** A permit shall be issued only upon condition that the applicant submit to the City Administrator or Director of Public Works satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000 per one (1) person, \$500,000 for one (1) accident and property damage coverage of not less than \$500,000.
- (h) **Bond.**
- (1) Before a permit for excavating or opening any public street, sidewalk, ditch, alley or public right-of-way may be issued, the applicant may be required to execute and deposit with the City a bond in the amount of Ten Thousand Dollars (\$10,000.00), conditioned that he/she will indemnify and save harmless the City of Amery and its officers from all liability for accidents and damage caused by any of the work covered by his/her permit, and that he/she will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he/she may make as near as can be to the state and condition in which he/she found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Director of Public Works for a period of one (1) year, and that he/she will pay all fines of forfeitures imposed upon him/her for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the Common Council and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the City. Such bond shall also guarantee that, if the City shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one (1) year. Recovery on such bond for any accident, injury, violation of law, ordinance, rule or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries or violation of law during the period of excavation for which it is given.
 - (2) An annual bond may be given under this Section covering all excavation work done by the principal for one (1) year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Director of Public Works as necessary to adequately protect the public and the City.
 - (3) Faulty work or materials shall be immediately replaced by the permittee upon notice by the City. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The Director of Public Works shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.
 - (4) The person who does such restoration shall be responsible therefor for one (1) year from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the City in an amount determined by the Director of Public Works.

- (5) Whenever the Common Council shall find that any such work has become defective within one (1) year of the date of completion, it shall give written notice thereof to the contractor or to his/her surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Common Council to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the City for the cost of doing the work as set forth in the notice.
- (i) **Special Tax.** In the alternative to the procedures under Subsection (h) above, if any person shall open a street for the purpose of servicing a specific without first having obtained a permit, the Common Council of said City shall cause the same to be done at the expense of the lot owner, and the expense thereof shall be certified to the City Administrator by the Council, and if said expense is not paid, it shall be carried into the tax roll as a special tax against the lot for which said opening was made.
- (j) **Public Utilities.** All public utilities as defined in Sec. 66.0801 and 196.01, Wis. Stats., are hereby required to be bound by the terms and conditions of this Section and Section 6-2-5, any and all subparagraphs thereunder, except that a public utility as defined within this Section shall not be required to post the indemnity bond.

Sec. 6-2-5 Regulations Governing Excavations and Openings.

- (a) **Frozen Ground.** Openings in the streets, alleys, sidewalks or public ways are discouraged between November 15th and May 1st except where it is determined by the Director of Public Works or his/her designee to be an emergency excavation.
- (b) **Election of City to Perform Work.**
 - (1) The present estimated cost to the City of replacing the street surfaces shall be determined under the following schedule which may be changed from time to time by resolution of the Common Council.
 - a. Concrete with rebar replacement: \$75.00/sq. yard.
 - b. Hot Mix: \$50.00/sq. yard.
 - c. Blacktop patch: \$50.00/sq. yard.
 - d. Gravel: \$17.00/sq. yard.
 - e. Seal Coat: \$50.00/sq. yard.
 - f. Curb and Gutter: Per City's bid price each construction season.
 - g. Sidewalk: Per City's bid price each construction season.
 - h. Block Corner resetting: Per City's bid price each construction season.
 - (2) Where the Director of Public Works or its designee has reason to believe that the applicant has made adequate provisions for repair and restoration of said street, alley or highways, the Director of Public Works may elect to have the applicant do said work and the City of Amery to further be reimbursed for reasonable costs of supervision, said costs to be determined by the Director of Public Works.

(c) **Protection of Public.**

- (1) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the City and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the Director of Public Works, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet from where pipe or conduit has been laid.
- (2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his/her employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
- (3) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his/her project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.
- (4) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Director of Public Works twenty-four (24) hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Section 6-2-4(b).
- (5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation.
- (6) Trenches adjacent to the roadway left open during non-working hours shall be protected with snow fence along the entire trench edge and shall be marked with flashing barricades at each end.
- (7) No equipment or construction materials may be stored during non-working hours within City roadway right-of-way.
- (8) No steel track construction equipment may be driven on or over paved City roadways.
- (9) Prior to beginning any work on City roadways, the City Administrator's office and Director of Public Works shall be given the names and telephone numbers of at least two (2) contractor employees who may be contacted during non-working hours.

- (10) Construction materials spilled or tracked on pavement shall be immediately swept off by power broom equipment.
- (11) No excavated materials may be stored temporarily or permanently within City roadway right-of-way.
- (12) The City may elect to have the City or an outside contractor make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one (1) year shall be charged to the person making the street opening.

(d) **Pavement Removal.**

- (1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his/her work and in accordance with all applicable codes and regulations.
- (2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Director of Public Works or his/her designee shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.
- (3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.
- (4) The Director of Public Works or his/her designee may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.
- (5) Precautions shall be taken to prevent damage to road pavements. Sheathing and bracing or the use of a portable trench box should be used to prevent undermining of material below the existing pavement. If damage is done to the pavement, it shall be restored.

(e) **Excavation.**

- (1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed. As little as possible of the trench must be dug until the slant of junction-piece of the sewer, water, gas main, electric cables, telephone lines or fuel line is found.

- (2) All conduits, sewers, pipes, wires or other means of transmission of utility services within the City, if to be placed underground, shall, in addition to all of the requirements of this Section, be dug in at least thirty (30) inches below the normal ground level whenever said utility service will cross under a highway, City street, sidewalk, alley or other public right-of-way within the City of Amery.
- (3) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

(f) **Backfilling.**

- (1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight (8) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the Director of Public Works or his/her designee, is unsuitable. All noncompactable material will be placed, upon excavation, in an area where removal from site will be made readily possible.
- (2) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Director of Public Works or his/her designee, hauled in.
- (3) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.
- (4) Mechanical compaction shall be used on all materials used for trench backfill. Each layer (12-inch maximum) shall be uniformly compacted. Compaction or consolidation by flooding shall not be permitted. Earth must be puddled or laid in layers not more than twelve (12) inches in depth and each layer rammed and tamped to prevent settling. The Public Works Department will test the fill to meet the City's specifications. Contractors will be instructed by the City's inspector, if he/she meets the specifications, to proceed to fill the opening.
- (5) All excavations shall be subject to testing by the City. Backfilled material not achieving the above compaction requirements shall be removed and recompact by the permittee. The cost of any retesting shall be paid by the permittee.
- (6) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation. When caving occurs, all the street support thus disturbed must be restored in the same careful manner as though it was an excavation or a trench.

- (g) **Notice.** It shall be the duty of the permittee to notify the Director of Public Works and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The Director of Public Works shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.
- (h) **Pavement Replacement and Sidewalk, Curb and Gutter and Driveway Restoration.**
- (1) Backfill material shall be left below the original surface to allow for five (5) inches of three (3) inch crushed stone and four (4) inches of three-quarter (3/4) inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter (3/4) inch crushed stone.
 - (2) Bituminous pavement shall be placed the full depth of the existing pavement or three (3) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of one and one-half (1-1/2) inch layers with each layer compacted to maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge.
 - (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by the Director of Public Works or his/her designee.
 - (4) All permanent restoration of street, curb and gutter shall be of the same type and thickness as the curb and gutter which abuts. The grade of the restored curb and gutter shall conform with the grade of the existing adjacent curb and gutter.
 - (5) All permanent restoration of driveways and sidewalks shall conform to the manner of construction as originally placed and to the lines and grades as given by the City Engineer. No patching of concrete driveway areas will be allowed between joints or dummy joints.
 - (6) Sidewalks shall be replaced the full width of the walk and minimum length shall be sixty (60) inches. All replaced walk shall be four (4) inches thick, except at driveways where it shall be six (6) inches thick. The new walk shall slope to conform to existing construction across the width of the walk toward the street.
 - (7) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three and one-half (3-1/2) inches of cold mix bituminous material.

This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1st, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.

- (8) When a street is reconstructed, utility laterals shall also be installed, including sump pump laterals, even if not immediately needed.
- (i) **Emergency Excavation.**
 - (1) In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his/her agents and employees make take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify City officials immediately.
 - (2) In case of emergencies such as ruptured mains, cables or anything where digging must take place immediately, all utilities may be notified by telephone and informed as to the location of the work as an alternative to the procedure in Section 6-2-4(a).
- (j) **Excavation in New Streets Limited.** Whenever the City determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after such determination, the City shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty (30) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Common Council, or committee thereof, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces.
- (k) **Repair by City.** The City may elect to make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one year shall be charged to the person making the street opening. In the event such charges are not paid within ninety (90) days of actual notice of the same having been furnished the applicant and owner of the premises for which said permit was issued, it shall become a lien against said premises and thereafter be assessed and collected as a special tax.

Sec. 6-2-6 Obstructions and Encroachments.

- (a) **Obstructions and Encroachments Prohibited.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed

or remain on any public way adjoining the premises of which he/she is the owner or occupant, except as provided in Subsections (b) and (c).

(b) **Exceptions.** The prohibition of Subsection (a) shall not apply to the following:

- (1) Temporary encroachments or obstructions authorized by street privilege permit under Section 6-2-6 pursuant to Sec. 66.0425, Wis. Stats.
- (2) Building materials for the period authorized by the Common Council, Building Inspector, or authorized designee, which shall not obstruct more than one-half (1/2) of the sidewalk or more than one-third (1/3) of the traveled portion of the street and which do not interfere with the flow in the gutters.
- (3) Excavations and openings permitted under Sections 6-2-3 and 6-2-4 of this Code.
- (4) Awnings which do not extend below any point seven (7) feet above the sidewalk, street or alley.
- (5) Public utility encroachments duly authorized by state law or the Common Council.
- (6) Temporary obstructions authorized by permit pursuant to Subsection (c).
- (7) Goods, wares, merchandise, or fixtures being loaded or unloaded which do not extend more than three (3) feet on the sidewalk, provided such goods, wares, etc., do not remain thereon for a period of more than two (2) hours.
- (8) Signs or clocks attached to buildings which project not extend further than permitted by the City Zoning Code from the face of such building and which do not extend below any point ten (10) feet above the sidewalk, street or alley.
- (9) Storage of commercial items pursuant to Subsection (c).
- (10) Annual "Crazy Daze" sales event.

(c) **Storage or Display of Commercial Items on Sidewalks and Rights-of-Way.**

- (1) No person shall, without a permit, place, store or display or cause to be placed, stored or displayed on any sidewalk, as defined in Ch. 340, Wis. Stats., any objects for sale or rent nor any advertisement for such objects or for services nor any substance or material of any nature used or to be used by or on behalf of an adjacent retail establishment, which shall include such items as signs, cafe tables and chairs, except as set forth below or under Section 6-2-21, as applicable. The property must be located in the Central Business Zone..
- (2) The City Administrator shall issue a permit to place items on a designated sidewalk pursuant to this Section upon the following terms and conditions:
 - a. Proof by the applicant of liability insurance in force for the permit period covering the premises supplied for with minimum limits of Five Hundred Thousand Dollars (\$500,000.00) for property damage and Five Hundred Thousand (\$500,000.00) for personal injury.
 - b. Payment by the applicant of a fee as prescribed in Section 1-3-1.
 - c. The permit shall be issued to the applicant for the specified premises and shall not be transferable either as to permittee or premises.
 - d. The permit period shall be for one (1) year from July 1 to June 30.

- (3) Any goods, wares or merchandise may be stored, without a permit being required, for not more than two (2) hours on not more than one-half (1/2) the width of a sidewalk while said objects are in the process of delivery.
 - (4) Any items referred to Subsection (c)(1) may be placed, stored or displayed for not more than twelve (12) hours per day while the adjacent retail establishment is open for business, provided at least two-thirds (2/3) of the width of the sidewalk remains unobstructed. A permit for such display shall be required.
 - (5) "Portable signs", as defined in Title 13, Chapter 1, shall be permitted on sidewalks provided they comply with the requirements of this Section and Title 13, Chapter 1. Portable signs not adjacent to the retail establishment to which the sign is related shall be permitted provided the owner or operator of the adjacent retail establishment shall jointly apply for the permit therefor.
 - (6) Neither governmental agencies nor vendors of newspapers shall be required to comply with the permit requirements or the time limitations set forth in this Section, but that such vendors shall be required to comply with the setback requirements of Subsection (c)(4).
- (d) **Removal by City for Sidewalk Obstructions and Encroachments.** In addition to any other penalty imposed, if any City enforcement official determines that a sidewalk is unlawfully obstructed in violation of this Section, he/she shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within twenty-four (24) hours.
- (e) **Removal by City for Obstruction and Encroachments Located in the City Streets, Alleys, Public Grounds or Lands Dedicated for Public Use.** In addition to any other penalty imposed, if the Chief of Police, Director of Public Works or Building Inspector determines that a City street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he/she shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within twenty-four (24) hours.
- (f) **Failure to Remove Obstruction.**
- (1) If the owner or occupant fails to remove the obstruction within the time period established in Section (d) or (e) respectively, the Council shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Administrator shall enter those charges onto the tax roll as a special tax as provided by the State Statutes.
 - (2) The failure of the City Administrator to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the

City expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this Section.

Sec 6-2-7 Street Privilege Permit.

- (a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways or places of the City may be granted to applicants by the Director of Public Works for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code of Ordinances. The Director of Public Works may request advisory recommendations from the Chief of Police and Building Inspector prior to issuance of the permit. City officials may attach conditions to the permit, including proof of liability insurance. Storage or display of commercial items on sidewalks and rights-of-way shall be governed by Section 6-2-6(c).
- (b) **Bond.** No street privilege permit shall be issued until the applicant shall execute and file with the City Administrator a bond not exceeding Ten Thousand Dollars (\$10,000.00), conditioned that the applicant will indemnify and save harmless the City from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the City resulting from such building or moving operations. At such time, evidence of liability insurance as prescribed in Section 6-2-4(g) shall also be filed.
- (c) **Fee.** There shall be no fee for a street privilege permit, except that there shall be a fee as prescribed in Section 1-3-1 if the City must close a street.
- (d) **Conditions of Occupancy.** The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Building Inspector, Chief of Police or Director of Public Works for violation thereof:
 - (1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.
 - (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
 - (3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four (4) feet in width guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.
 - (4) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.

- (5) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
- (e) **Termination.** All street privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the discretion of the Common Council.
- (f) **Removal by City.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within twenty-four (24) hours after such notice from the Common Council to do so, it shall be the duty of the City to remove such obstruction and make return of the costs and expenses thereof to the City Administrator who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

State Law Reference: Sec. 66.0425, Wis. Stats.

Sec. 6-2-8 Snow and Ice Removal; Depositing and Plowing Snow Upon Public Streets.

- (a) **Snow and Ice Removal from Sidewalks.**
 - (1) **Definitions.** "Sidewalk" shall mean the portion of the street right-of-way designed for pedestrian travel.
 - (2) **Owner's Responsibility.** The owner, occupant or person in charge of any parcel of land or lot which fronts upon or adjoins any sidewalk shall have twenty-four (24) hours after the end of snowfall to remove all snow and ice from the sidewalk in front of the premises owned or occupied by him/her to a minimum of four (4) feet in width, provided that when ice is so formed on any sidewalk so that it cannot be removed, then the person owning or occupying such premises shall keep the same sprinkled with sand, grit or de-icer.
 - (3) **Removal by the City and Failure to Clean.** In the event the owner has not complied with Subsection (a)(2) above, such work may be performed by the City, and the cost thereof charged to the property owner at a rate as prescribed in Section 1-3-1 per hour or any part of an hour. The time charge for such snow and ice removal, or sprinkling with sand, grit or de-icer, shall include time involved in loading and unloading equipment and transportation to and from the site. In the event the property owner fails to pay the City of Amery for such work within sixty (60) days after such expenses are incurred and remain unpaid, such costs shall be entered on the tax roll as a special tax against such real estate.

(b) Depositing and Plowing Snow Upon Public Streets.

- (1) **Improper Deposit on Sidewalks.** No person, firm or corporation shall deposit, or cause to be deposited in or upon any public sidewalk in the City of Amery, significant amounts of snow or ice taken or removed from property privately owned or occupied, or cause said actions to occur, except that for parcels or lots located in the C-2 Central Business District where existing buildings are constructed within five (5) feet of the street right-of-way and the sidewalks exist from the City right-of-way to the curb line, the owners, occupants, and/or employees of parcels or lots located in C-2 Central Business District shall be permitted to deposit snow and ice from their sidewalks onto the public streets.
- (2) **Improper Deposit Across Streets.** No person, firm or corporation shall plow, shovel, push, or blow across any public street or roadway, snow or ice taken or removed from property privately owned or occupied, or cause said actions to occur.
- (3) **Improper Deposit on Streets.** No person, firm or corporation shall deposit, or cause to be deposited, in or upon the traveled portion of any public alley, street or roadway in the City of Amery, snow or ice taken or removed from property privately owned or occupied.
- (4) **Deposit of Snow Near Corners.** No person, firm or corporation shall deposit, or cause to be deposited, in or upon any portion of any sidewalk or boulevard in the City of Amery that lies within twenty-five (25) feet of the corner of any street or avenue snow or ice taken or removed from property privately owned or occupied.
- (5) **Prima Facie Violations.** The existence of any deposit of snow or ice deposited by artificial means in the traveled portion of any public street, alley, roadway or sidewalk shall be prima facie evidence that the owner or occupant of the abutting property closest thereto placed or deposited said ice or snow therein, or plowed, shoveled, pushed, or blown, said snow or ice across said public street or roadway.
- (6) **Penalties.** In addition to any penalty imposed under Section 1-1-7, a person, firm or corporation convicted of a violation of this Section shall reimburse the City of Amery for any and all costs and expenses associated with removal of snow by City employees, which is necessitated by the said violation of this Section.

State Law Reference: Sec. 66.0627, Wis. Stats.

Sec. 6-2-9 Terrace Areas.

- (a) **Definition.** The definition of "terrace" shall be as defined in Section 6-4-2(e).
- (b) **Noxious Weeds; Paving.** All that part of the terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn,

except in areas specifically approved by the Common Council or its designee. Basketball backstops, statuary, structures, flag poles and other objects shall not be placed in the terrace area.

- (c) **Responsibility to Maintain.** Every owner of land in the City whose land abuts a terrace is required to maintain, or have maintained by his/her tenant, the terrace directly abutting such land as provided in this Section and elsewhere in this Code. Every owner shall keep mailboxes located on a terrace free and clear of snow.

Cross-Reference: Title 6, Chapter 4.

Sec. 6-2-10 Vaults.

All vaults and cisterns under sidewalks shall be prohibited.

Sec. 6-2-11 Requests for Improvements.

Requests or petitions by City property owners for new streets, street resurfacing, curb and gutter, storm sewers, utility work and sidewalks shall be presented to the Common Council on or before September 15th to be considered for installation in the following year.

Sec. 6-2-12 Unlawful Dumping on Streets.

It shall be unlawful for any person to deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk, alley, or upon any public property or upon any property of another, without the express permission of the owner or occupant thereof. Such unlawful material or obstruction may be removed by the City and the cost thereof billed to the violator pursuant to Sec. 66.0627, Wis. Stats.

Sec. 6-2-13 Street Numbers.

- (a) **Established.** There is established a uniform system of numbering houses and buildings fronting on all streets, avenues and highways in the City of Amery; and all houses and buildings shall be numbered in accordance therewith.
- (b) **Houses to Bear Numbers.**
- (1) There shall be assigned to each house and building located on any street, avenue, alley or highway in the City its respective number under the uniform system provided for in this Section.

- (2) a. It shall be the duty of the Building Inspector and other appropriate officials to inform any party applying therefor of the number or numbers belonging or embraced within the limits of said lot or property as provided in this Section. In case of doubt as to the proper number to be assigned to any lot or building, the City Administrator shall determine the number of such lot or building.
 - b. The owner of any principal building hereafter erected shall at the time of obtaining a building permit be assigned an address number, which number shall be posted within twenty (20) days from date of assignment or from date of original occupancy, whichever shall be last.
 - c. Within thirty (30) days after final approval of the plat of any subdivision or other division of land, the City Administrator shall assign address number to each new building site.
- (3) The cost of the number or numbers shall be borne by the property owners. The numbers shall be procured from the City at the unit price for the same, such price to be the cost of such units to the City. Replacement numbers shall be procured and paid for by the owner.
- (4) The numbers shall be conspicuously placed immediately above, on or at the side of the proper door of each building so that they can be plainly seen from the street. Whenever any building is more than fifty (50) feet from the street line, the number of the building shall be conspicuously displayed at the street line, near the walk, driveway or common entrance to such building and upon a gate post, fence, tree, post or other appropriate place so as to be easily discernable from the sidewalk. Numbers shall be placed not less than two (2) feet or more than ten (10) feet above the surface of the ground immediately below the location of the number, and shall not be obscured by trees, landscaping or shrubbery. The owner or occupant shall at all times keep such numbers so attached or applied. The numbers shall be not less than three (3) inches in height, with dark lettering against a light background. Script numbers may not be used as the primary address numbers. The use of script numbers shall be in addition to the use of the required numerals.
- (c) **Records.** To facilitate correct numbering, a plat book of all the streets, avenues and public highways within the City showing the numbers of all lots or houses fronting thereon shall be kept on file in the office of the City Administrator. These plats and/or maps shall be open to public inspection during the office hours of the City Administrator.
- (d) **City Administrator to Assign Numbers.** The City Administrator shall inform any party applying therefor of the number or numbers belonging to or embraced within the limits of any lot or property as provided in this Section. In case of doubt as to the proper number to be assigned to any premises, the City Administrator shall determine the number of such premises.
- (e) **Number Assignment as Condition For Building Permit.** Whenever any house, building or structure is erected or located in the City after the entire work of establishing a uniform system of house numbering has been completed, in order to preserve the continuity and

uniformity of numbers of the houses, buildings and structures, the owner shall procure the correct number or numbers from the City Administrator for the property and shall immediately fasten such number or numbers so assigned upon such building as provided in this Section. No building permit shall be issued for any house, building or structure until the owner has procured from the City Administrator the official number of the premises.

- (f) **Distinctive Numbers for Portions of Buildings.** Where only one (1) number can be assigned to any house or building, the owner, occupant or agent of such house or building, who shall desire distinctive numbers for the upper and lower portion of any such house or building, or for any part of such house or building, fronting on any street, such owner, occupant or agent shall use the suffix "A", "B", "C", etc., as may be required.

Sec. 6-2-14 Obstruction of Public Ditches.

No person shall in any manner obstruct or cause to be obstructed the free passage of water in any public gutter, ditch, culvert, swale or drain or place or cause to be placed any rubbish, dirt, sand, gravel or any other matter or thing so that the same is likely to be carried by the elements into any public gutter, ditch, culvert, swale or drain.

Sec. 6-2-15 Use and/or Lease of City Equipment and Services.

- (a) **Equipment.** The City of Amery shall not permit any person to use and/or lease any City equipment for private purposes.
- (b) **Services.** The City of Amery shall not generally provide specialized services such as heavy equipment services, snowplowing, etc., for private parties, whether for a fee or no fee. However, due to the unavailability of private sector service providers and in order to protect public safety, the City of Amery may provide sanding/salting services to private businesses on a fee basis.

Sec. 6-2-16 Bidding of Public Construction Projects.

- (a) **Nonbid Construction.** The following classes of public work, or any part thereof, may be done directly by the City without submitting the same for bids:
- (1) Construction and repair of streets.
 - (2) Laying of sewer mains and laterals.
 - (3) Laying of water mains and laterals.
 - (4) Repair of sewer and water mains.
 - (5) All public construction of which the estimated cost is less than Five Thousand Dollars (\$5,000.00).

- (b) **Contracts, How Let.** All public construction, the estimated cost of which exceeds Ten Thousand Dollars (\$10,000.00), shall be let by contract to the lowest responsible bidder; all other public construction shall be let as the Council shall direct. If the estimated cost of any public construction exceeds Ten Thousand Dollars (\$10,000.00), the Board of Public Works shall give a Class 1 notice under Chapter 985, Wis. Stats., of the proposed construction before the contract for construction is executed. The Council may also by a vote of three-fourths (3/4) of all the members-elect provide by ordinance that any class of public construction or any part thereof may be done directly by the City without submitting the same for bids.

Sec. 6-2-17 Dirt and Debris on Streets.

- (a) In the interests of public safety, health and general welfare, community appearance, and efficiency of operation, it shall be unlawful to place, throw, leave, in any way deposit or permit to be deposited, or permit to remain any dirt, leaves, rubbish, litter, debris or material of any kind upon any street, sidewalk, alley, drainageway, or public ground in the City of Amery.
- (b) The owner, occupant, or person in charge of private premises, which places, causes or permits to remain, any of said materials upon any street, sidewalk, alley, drainageway or public ground in the City of Amery shall immediately remove said materials at no cost to the City.
- (c) (1) The operator of any motor vehicle which tracks, drops, or places any materials upon any street, sidewalk, alley, drainageway or public ground in the City of Amery shall immediately stop and remove said materials at no cost to the City.
- (2) In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said operator causes the deposition of any materials upon any street, sidewalk, alley, drainageway, or public ground in the City of Amery, and which said operator fails to remove said materials as required in Section (c) above, the owner, occupant, or person in charge of said work on said private premises, shall remove said materials at no cost to the City.
- (d) In the event the materials are not removed from the street in accordance with Subsections (b), (c), and/or (c)(1) above, the City shall cause the removal of such materials and shall charge said operator, or said owner, occupant, or person in charge of said work the cost of the removal. In the event the person charged for said removal fails to pay such costs within thirty (30) days, it shall be entered on the tax roll as a special tax against said property.
- (e) In addition to the costs of removal, said operator, or said owner, occupant, or person in charge of said property shall be subject to a penalty per occurrence as prescribed in Section

1-1-7. Each day that said materials are not removed, shall constitute a separate offense under this Section.

Sec. 6-2-18 Damages to Streets and Public Property.

- (a) In the interests of public safety, health, general welfare, community appearance, and efficiency of operation, it shall be unlawful in any way to cause damage, injury, or destruction, to any portion or any fixture of any street, sidewalk, alley, drainageway, or public ground in the City of Amery.
- (b) The person which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the City of Amery shall immediately stop and notify the Police Department that he/she has caused such damages and shall correct said damages within ten (10) days at no cost to the City.
- (c)
 - (1) In the event the operator of any motor vehicle or equipment which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the City of Amery, fails to report such damage, it shall be considered a violation of this Section.
 - (2) In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said operator causes the damage of any portion or fixture of any street, sidewalk, alley, drainageway, or public ground in the City of Amery, and which said operator fails to correct said damages as required in Section (c) above, the owner, occupant, or person in charge of said work on said private premises, shall correct said damages at no cost to the City.
- (d) In the event the damages are not corrected within ten (10) days, the City shall cause the correction of said damages and shall charge the operator, or owner, occupant, or person in charge of said property the cost of correcting the damage. In the event the said costs remain unpaid following thirty (30) days, it shall be entered on the tax roll as a special tax against said property.
- (e) In addition to the costs to correct damages, said operator, or said owner, occupant, or person in charge of said property shall be subject to a penalty per occurrence as prescribed in Section 1-1-7. Each day after said ten (10) days that the damages are not corrected, shall constitute a separate offense under this Section.

Sec. 6-2-19 Adoption of State Statutes Concerning Roads.

The statutory provisions in the following enumerated sections of the Wisconsin Statutes, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of said statutes, are hereby adopted and, by reference, made a part of this Section. Any

act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this Section. Any future amendments, revisions or modifications of the statutory regulations incorporated herein are intended to be made part of this Section.

- (a) Sec. 80.32 Highways, Discontinuance of.
- (b) Sec. 80.47 Streets, Right of Abutting Owners.
- (c) Sec. 81.15 Highways, Liability for Defects.
- (d) Sec. 86.03 Trees, On and Adjacent to Highways.
- (e) Sec. 86.04 Highway Encroachments
- (f) Sec. 86.05 Highways, Duty to Restore Entrances.
- (g) Sec. 86.06 Highways, Closing to Travel.
- (h) Sec. 86.07 Highways, Depositing Rubbish or Digging In.
- (i) Sec. 86.105 Driveways, Snow Removal.
- (j) Sec. 86.19 Highway Signs, Regulation, Prohibition.
- (k) Sec. 146.13 Highways and Surface Waters, Discharging Noxious Matter Into.

Sec. 6-2-20 Grass Clippings.

All grass clippings from lawnmowing or other sources shall not be allowed to blow upon or accumulate in significant quantities upon any public street in the City of Amery where such grass clippings could wash into any storm sewer drainage inlet.

Sec. 6-2-21 Special Event Street Vending Permit.

- (a) **Street Sales Prohibited Except by Permit.** No person shall display, sell, or offer to sell, on any street, sidewalk, alley or other public place within the City, any goods, wares, foodstuffs or anything of value or service of any kind by putting up a booth or stopping a vehicle or person on foot or in any other manner attempting to publicly sell or offer for sale any such articles, unless such person shall have first applied for and obtained a special event vending permit from the City Administrator under this Section or is otherwise authorized under Section 6-2-6(c) or exempt under Section 6-2-6(b). Such permit shall enable holders to conduct their business in all enumerated areas subject to the limitations in this Section. A special event vending permit shall be obtained where the vending is done by a participant in a special event and where such vending is an integral part of the event. However, where the vending is to occur in connection with a City or area-wide promotion of community trade or festival sponsored or coordinated by an organization, the sponsoring organization shall obtain the special event vending permit as agent for its participating members.
- (b) **Procedure.**
 - (1) Application for a special event vending permit shall be filed with the City Administrator and shall contain such information as the City Administrator may

require. The permit shall set forth the exact days/times on which and the exact location where such business shall be carried on and shall be valid only during the dates/times and at the locations specified. Where a sponsoring organization is the applicant, the applicant shall provide the City Administrator with a complete list of sponsors and participants at the time of making application.

- (2) Upon receipt of an application for a permit, the City Administrator shall review the information given on the application for conformity with the provisions of this Section. If all the applicable requirements are clearly met in the City Administrator's opinion, he/she shall make a recommendation on the application to the Common Council. If the applicable requirements are not clearly met in the Administrator's opinion, he/she shall state the matters in doubt in writing to the applicant within three (3) days of the time of making application.
 - (3) The Common Council shall review the application and the City Administrator's recommendation and either deny the permit, approve the permit or approve the permit conditionally.
- (c) **Conditions of Permit.** In addition to any other conditions imposed by the Common Council, all permittees shall fully comply with the following requirements:
- (1) **Liability Insurance.** To hold a valid permit, the vendor must have in force adequate liability insurance. Adequate liability insurance is liability insurance holding the City and its employees and agents harmless and to indemnify and defend the City, its employees and agents against all claims, liability, loss, damage, or expense incurred by the City with adequate liability policy limits on account of any damage caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform this condition of the permit, the applicant shall furnish a Certificate of Insurance evidencing the existence of comprehensive general liability insurance (including contractual liability insurance with the City being named as an additional insured). Adequate liability limits means minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence for bodily injury and minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence for property damage. The Certificate of Insurance shall provide thirty (30) days' written notice to the City upon cancellation, or nonrenewal or material change in the policy. Proof of insurance shall be submitted to the City Administrator a minimum of seven (7) days before the start of the event.
 - (2) **Cooperation with Law Enforcement Officials.** To protect the public health and safety, the permittee shall coordinate with the Chief of Police and Director of Public Works the location of all events under the permit. Street and sidewalk encroachments, booth locations and special parking provisions shall be submitted to the Chief of Police and Director of Public Works for their review and approval a minimum of five (5) days before the start of the event.
 - (3) **Cleanup.** The permittee shall be fully responsible for all necessary cleanup associated with the licensed event.

- (4) ***Compliance with Other Regulations.*** The permittee shall comply with all applicable state and county regulations governing health and sanitation for food handling establishments, if applicable, and any other applicable City regulations, including, but not limited to, regulations pertaining to the issuance of Special Class "B" Fermented Malt Beverage Licenses.

Cross-Reference: Section 6-2-6(c).

Title 6 ► Chapter 3

Driveways

- 6-3-1** Driveway Permit Required
- 6-3-2** Driveway Location, Design and Construction Requirements
- 6-3-3** Front Yard Parking

Sec. 6-3-1 Driveway Permit Required.

- (a) **Purpose.** For the safety of the general public, the City of Amery shall determine the location, size, construction and number of access points to public roadways within the City limits. It is the City's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
- (b) **Permit Required to Construct, Reconstruct, Alter or Enlarge.** No person shall construct a driveway across any sidewalk or curbing without first obtaining a driveway permit from the Director of Public Works. For bond and insurance requirements, see provisions of Section 6-2-4(g) and (h).
- (c) **Application.**
 - (1) Application for such permit shall be made to the City Administrator for referral to the Director of Public Works on a form provided by the City and shall be accompanied by a drawing accurately depicting the portion of the proposed private driveway to be constructed, reconstructed, altered or enlarged lying within the dedicated portion of the public street, the dimensions thereof and a statement of the materials proposed to be used. The applicant shall pay a fee as prescribed in Section 1-3-1. Upon receipt of the application and the fee if required, unless the proposed private driveway is a part of construction for a building or other structure for which a building permit has been applied for, in which case no additional fee is required, the Director of Public Works shall approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable City ordinance.
 - (2) All applications for permits shall be made on a form prescribed by the Director of Public Works and be accompanied by a sketch in duplicate showing exact location of any naming:
 - a. Driveway and approaches.
 - b. Property lines.

- c. Right-of-way lines.
 - d. Intersecting roads, streets or roadways within three hundred (300) feet.
 - e. Width of right-of-way.
 - f. Width and type of road surface.
 - g. Distance from right-of-way line to gasoline pumps and other structures on the site.
 - h. Type of surface and width of driveways and approaches.
 - i. Proposed turning radii.
 - j. Other pertinent information as may be required.
- (d) **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:
- (1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his/her property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the City street, or for any other purpose.
 - (2) The City, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the City street at any time, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damage or destruction of such private roadway.
 - (3) The permittee, his/her successors or assigns, agrees to indemnify and hold harmless the City of Amery, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
 - (4) The City does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the City street.

Sec. 6-3-2 Driveway Location, Design and Construction Requirements.

- (a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:
- (1) **General Design.** Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches

shall be at least ten (10) feet apart except by special permission from the Director of Public Works, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.

- (2) **Number.** The number of driveways to serve an individual property fronting on a street shall be one (1), except where deemed necessary and feasible by the Public Works Committee for reasonable and adequate service to the property, considering the safety, convenience and utility of the street and the unique characteristics/needs of the parcel.
- (3) **Island Area.** The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (a)(6).
- (4) **Drainage.** The surface of the driveway connecting with street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed. No driveway apron shall extend out into the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches, or roadside areas or with any existing structure on the right-of-way. When required by the Public Works Committee so as to provide for adequate surface water drainage along the abutting street, the property owner shall provide any necessary culvert pipe at such owner's expense.
- (5) **Reconstruction of Sidewalks and Curb and Gutter.** When the construction of a driveway requires the removal of a curb or gutter the new connections shall be of equivalent acceptable material and curb returns shall be provided or restored in a neat, workmanlike manner. The driveway surface shall be connected with the highway pavement and the sidewalk, if any, in a neat, workmanlike manner. The driveway construction shall include the replacement of such sidewalk areas which are inadequate or which are or may be damaged by means of vehicle travel across the sidewalk. All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code insofar as such requirements are applicable, including thickness requirements. Standard thickness of residential driveway approaches will be six (6) inches thick.
- (6) **Restricted Areas.** The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
 - a. The filling or draining shall be to grades approved by the Director of Public Works and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.

- b. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate manholes adequate for cleanout purposes may be required where the total culvert length is excessive.
 - c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Director of Public Works.
- (7) **Relocation of Utilities.** Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Director of Public Works necessary before any utility may be relocated and the driveway installed.
 - (8) **Construction Across Sidewalks.** All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code insofar as such requirements are applicable, including thickness requirements.
 - (9) **Surfacing.** New driveways shall be hardsurfaced within one (1) year of driveway permit issuance.
 - (10) **Variances.** Any of the above requirements may be varied by the Public Works Committee in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.
- (b) **Special Requirements for Commercial and Industrial Driveways.** The following regulations are applicable to driveways serving commercial or industrial establishments:
- (1) **Width of Drive.** The maximum permitted width of a commercial or industrial driveway approach shall be thirty-five (35) feet at the curb line, except as increased by permissible radii. In instances where the unique nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Public Works Committee in its discretion may permit a driveway of additional width.
 - (2) **Angular Placement of Driveway.** The angle between the center line of the driveway and the curb line shall not be less than 45°.
 - (3) **Island Areas.** Where the public sidewalk is adjacent to the curb, an island of a minimum length of six (6) feet measured along the curb line shall be placed between each entrance to a City street. The curb shall be left intact for the length of this island. Where the public sidewalk is remote from the curb, an island of a minimum length of ten (10) feet measured along the right-of-way line shall be maintained along each entrance to the City street. All flares shall be tangent to the curb line. A curb length of not less than three (3) feet shall be left undisturbed adjacent to each property line to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his/her property.

- (c) **Special Requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property:
- (1) **Angular Placement.** The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.
 - (2) **Width.**
 - a. A single-width driveway running from the street access to a garage or parking pad shall not utilize more than fifteen percent (15%) of any front yard or exceed twenty-four (24) feet in width, except for front yards with a front footage width of less than seventy (70) feet in which case the maximum width for a single driveway shall be eleven (11) feet.
 - b. A double-width driveway running from the street access to a garage or parking pad shall not utilize more than twenty-seven percent (27%) of any front yard; provided, the maximum width of a driveway shall not exceed twenty-four (24) feet in any case and shall not exceed eighteen (18) feet for front yards with a front footage width of less than seventy (70) feet.
 - c. A triple-width driveway running from the street access to a garage or parking pad shall not utilize more than thirty-three percent (33%) of any front yard; provided that the maximum width of a driveway shall not exceed thirty (30) feet in any case, and shall not be permitted for front yards with a front footage width of less than one hundred ten (110) feet.
- (d) **Appeal from Permit Refusal.** Any person feeling himself/herself aggrieved by the refusal of the Director of Public Works to issue a permit for a private driveway may appeal such refusal to the Common Council within twenty (20) days after such refusal to issue such permit is made.
- (e) **Prohibited Driveways.**
- (1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the City of Amery except as permitted by this Section. As used herein the word "structure" includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.
 - (2) No driveway shall be closer than thirty-five (35) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the City for effective traffic control or for highway signs or signals.
 - (3) The grade of that portion of any private driveway or pedestrian path located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.

- (4) No driveway apron shall extend out into the street further than the facing of the curb and under no circumstances shall such driveway apron extend into any gutter area. All driveway entrances and approaches shall be constructed as not to interfere with the drainage of streets, side ditches or roadside areas, or with any existing structure on the right-of-way.
- (5) No portion of any curb, parapet or retaining wall, rising above the grade of the driveway, erected by the owner of the premises involved shall extend beyond the culvert spanning the water course located in such public way.
- (f) **Culvert Construction Standards.**
- (1) **Size.** Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than twelve (12) inches in diameter (or equivalent elliptical or arch pipe) will be allowed. All culverts shall be constructed of galvanized steel or reinforced concrete, and shall be of new manufacture, unless specifically excepted by the Director of Public Works.
- (2) **Gauge.** The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

Pipe Diameter	Gauge
15 to 24 inch	16
30 to 36 inch	14
42 to 54 inch	12
60 to 72 inch	10
78 to 84 inch	8

The class of reinforced concrete pipe shall be in accordance with the following:

Height of Cover (in feet)	Class of Pipe
0-2	IV
2-3	III
3-6	II

- (3) **Drainage.** The culverts shall be placed in the ditchline at elevations that will assure proper drainage.
- (4) **Endwalls.** Culverts shall be provided with a concrete or metal apron endwalls as directed by the Director of Public Works.
- (5) **Backfill Material.** Material used for backfill shall be of a quantity acceptable to the Director of Public Works and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches.

- (6) **Erosion Control.** Erosion control measures shall be implemented as necessary to control erosion, or as directed by the Director of Public Works.
- (7) **Distance.** The distance between culverts under successive driveways shall not be less than ten (10) feet except as such restricted area is permitted to be filled pursuant to Subsection (a)(6).
- (8) **Cost.** The property owner shall install the culvert and be responsible for the cost thereof. The property owner shall keep his/her culverts unobstructed and clean.
- (9) **Appeal.** Persons may request a variance from the culvert requirements of this Section by filing a written appeals request with the City Administrator, who shall place the matter as an agenda item for the Common Council's next meeting. The Common Council may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary. The Director of Public Works may be asked to render an opinion on the request.

Sec. 6-3-3 Front Yard Parking.

- (a) **Purpose.** It is hereby recognized that uncontrolled residential off-street parking, specifically in residential front yards, may constitute a public nuisance. The purpose of this Section is to provide for the regulation of residential off-street parking and to specify the requirements for residential off-street parking as they pertain to the appearance and the health, safety and welfare of the City.
- (b) **Definitions.** The definitions of words or phrases used herein shall be as defined below:
 - (1) **Drive Apron.** The connection between a driveway and the travelled portion of a street, in the public right-of-way, including any sidewalk area abutting thereon.
 - (2) **Driveway.** An improved surface maintained for motor vehicle access and parking. Such surfaces include those located from street entrance to garage or parking area, and those used specifically for circular turnaround or circular through traffic.
 - (3) **Improved Surface.** A surface of bituminous or Portland cement concrete or other material, other than grass, such as crushed rock, gravel or other materials, laid over subsoil, which provides a hard driving surface, resists rutting, provides for sufficient water runoff and is graded and drained to dispose of all surface water.
 - (4) **Motor Vehicle.** A vehicle is defined by Sec. 340.01, Wis. Stats.
 - (5) **Parking Pad.** An improved surface which is not a driveway or drive apron, connected to a driveway upon which vehicles are parked.
 - (6) **Residential.** Any single-family dwelling or two-family dwelling in any residential district, or any dwelling formerly single-family or two-family in any district which has been converted to a rooming or lodging house.
- (c) **Parking Standards.** The parking of any motor vehicle upon a residential lot shall be in compliance with the following standards:

- (1) The parking of any motor vehicle within the front yard or street side yard shall be on a driveway or parking pad. Driveways/parking pads shall meet the standards of Section 6-3-2.
- (2) No parking pad shall be allowed in the front yard or street side yard except:
 - a. That the Board of Zoning Appeals is granted the authority to grant a variance from this requirement in circumstances where sufficient space is neither available in any side yard, which is not a street side yard, nor in the rear yard, upon such terms and conditions as the Board requires, provided, however, that the parking pad be shielded from the street by landscaping, hedges or decorative fencing; and
 - b. In a licensed mobile home park, a parking pad for a maximum of two (2) vehicles shall be allowed in the front yard.
- (d) **Setback Areas.** On residential lots, the required front yard setback, and the required street side yard setback on any corner lot, shall not be considered a part of the permitted parking area but shall be landscaped, except that motor vehicle parking shall be permitted in a legal driveway or garage and except that the Board of Zoning Appeals is granted the authority to grant a variance from this requirement upon such terms and conditions as the Board required, in circumstances where sufficient space is neither available in any side yard, which is not a street side yard, nor in the rear yard.

Title 6 ► Chapter 4

Trees and Shrubs

6-4-1	Statement of Policy and Applicability of Chapter
6-4-2	Definitions
6-4-3	Authority of City Forester to Enter Private Premises
6-4-4	Interference with City Forester Prohibited
6-4-5	Abatement of Tree Disease Nuisances
6-4-6	Planting of Trees and Shrubs
6-4-7	Trimming
6-4-8	Trees and Shrubbery Obstructing View at Intersections or View of Traffic Signs
6-4-9	Removal of Trees and Stumps
6-4-10	Prohibited Acts
6-4-11	Appeal from Determinations and Orders
6-4-12	Tree Costs Chargeable to Lands
6-4-13	Inspection of Trees
6-4-14	Adoption of State Statutes

Sec. 6-4-1 Statement of Policy and Applicability of Chapter.

- (a) **Intent and Purpose.** It is the policy of the City of Amery to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the City to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the City; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and shrubs both public and private within the City against the spread of disease, insects or pests.
- (b) **Power to Regulate Trees and Shrubs.**
 - (1) The Common Council has empowered the City Forester to plant, transplant, remove, trim, treat and otherwise care for and protect all trees, shrubs and plants on all public lands not specifically delegated to other City boards, all to insure public safety and to preserve and enhance the beauty of such public lands.

- (2) Public lands under the jurisdiction of the City Forester includes but is not limited to all lands within the lines of all public streets and alleys in the City, more specifically the terrace strip between the lot line and curb or improved portion of any public street or alley.
- (3) The Common Council is empowered to require landowners to remove, trim or treat specified trees, shrubs or plants under certain conditions and to prohibit the planting of certain trees or tree species, shrubs or plants on private lands within the City of Amery.
- (c) **Application.** The provisions of this Chapter shall apply to trees and shrubs growing or hereafter planted in or upon public areas and terrace areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

Sec. 6-4-2 Definitions.

Whenever the following words or terms are used in this Chapter, they shall be construed to have the following meanings:

- (a) **Person.** Person, firm, association or corporation.
- (b) **Public Areas.** Includes all public parks and other lands owned, controlled or leased by the City except the terrace areas.
- (c) **Public Trees and Shrubs.** All trees and shrubs located or to be planted in or upon public areas.
- (d) **Public Nuisance.** Any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property.
- (e) **Boulevard or Terrace Areas.** The land between the normal location of the street curbing and sidewalk. Where there is no curb and gutter, the area four feet from the curb line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace." Where there are no sidewalks, the area four (4) feet from the curb shall be deemed boulevard areas under this Chapter.
- (f) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.
- (g) **Shrubs.** Any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.
- (h) **Tree.** Any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.
- (i) **Evergreen Tree.** Any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.

- (j) **City Forester.** The Common Council shall designate a City Forester, or assign such duties to a City employee.

Sec. 6-4-3 Authority of City Forester to Enter Private Premises.

The City Forester or his/her authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained pursuant to Sec. 66.0119, Wis. Stats.

Sec. 6-4-4 Interference with the City Forester Prohibited.

No person shall interfere with the Common Council or its authorized representative while they are engaged in carrying out any work or activities authorized by this Chapter.

Sec. 6-4-5 Abatement of Tree Disease Nuisances.

- (a) **Dutch Elm and Other Tree Diseases a Public Nuisance.** Whereas the Common Council has determined that there are many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the City, and that the health and life of such trees is threatened by fatal diseases such as Dutch Elm disease, which is spread by the elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.), the Common Council hereby declares its intention to control and prevent the spread of such disease and the insect pests and vectors which carry such diseases and specifically declares Dutch Elm disease and the elm bark beetles which carry such disease to be public nuisances.
- (b) **Definitions.** As used in this Section, unless otherwise clearly indicated by the context:
- (1) "Public Nuisance" means:
 - a. Dutch Elm disease.
 - b. Elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
 - c. Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus or in a weakened condition which harbors any of the elm bark beetles, *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
 - d. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.

- e. Any other deleterious or fatal tree disease.
 - f. Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the terrace strip between curb and lot line.
 - g. Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.
- (2) "Public property" means owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.
 - (3) "Person" means person, firm or corporation.
- (c) **Inspection.**
- (1) The City Forester shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance exists thereon. The City Forester shall also inspect or cause the inspection of any elm tree reported or suspected to be infested with the Dutch Elm disease or any elm bark bearing materials reported or suspected to be infested with elm bark beetles.
 - (2) Whenever necessary to determine the existence of Dutch Elm disease or elm bark beetles in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens to the City Forester which shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.
 - (3) The City Forester or his/her agents shall have authority to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this Section.
- (d) **Abatement of Nuisances.**
- (1) The City Forester shall order, direct, supervise and control the abatement of public nuisances as defined in this Section by spraying, removal, burning or by other means which it determines to be necessary to prevent as fully as possible the spread of Dutch Elm disease fungus, other deleterious tree diseases or the insect pests or vectors known to carry such diseases.
 - (2) Whenever the City Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the City, it shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm disease, other deleterious tree diseases, or the insect pests or vectors known to carry such disease fungus.
 - (3) a. When the City Forester shall determine with reasonable certainty that a public nuisance exists upon private premises, it shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he/she

can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing before the City Forester, not less than ten (10) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the City, the City Forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the City.

- b. If, after hearing held pursuant to this Subsection, it shall be determined by the City Forester that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such hearing, the City Forester shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this Section. The City Forester may extend the time allowed the property owner for abatement work but not to exceed ten (10) additional days.

(e) **Spraying.**

- (1) Whenever the City Forester shall determine that any tree or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors elm bark beetles, the City Forester may cause all trees within a one thousand (1,000) foot radius thereto to be sprayed with an effective disease destroying concentrate or other insecticide.
- (2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this Section, the Forester shall cause to be given advance public notice of such operations by newspaper, radio, television, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least twenty-four (24) hours in advance of spraying.
- (3) When appropriate warning notices and temporary "no parking" notices have been given and posted in accordance with Subsection (b) of this Section, the City shall not allow any claim for damages to any vehicle caused by such spraying operations.
- (4) When trees on private property are to be sprayed, the Forester shall notify the owner of such property and proceed in accordance with the requirements of Subsection (d)(3).

Sec. 6-4-6 Planting of Trees and Shrubs.

- (a) **Responsibility.** The size and genus, species and variety of trees and shrubs to be planted in terraces, tree banks and boulevards and the manner of planting shall be submitted to the City Forester for approval before commencement of such work. All planting, maintenance

and trimming of trees in terraces shall be the responsibility of the individual property owners.

- (b) **Tree Sizes.** The City Forester shall prepare and maintain lists of tree species desirable for planting in boulevards according to their normal mature height:

- (1) Large trees: Over forty (40) feet;
- (2) Medium trees: Twenty-five (25) to forty (40) feet; and
- (3) Small trees: Fifteen (15) to twenty-five (25) feet.

- (c) **Planting Size.**

- (1) All large or medium trees, when planted, shall be at least eight (8) feet high and have a minimum trunk diameter of one and one-half (1 1/2) inches at a point six (6) inches above the ground.
- (2) All small trees, when planted, shall be least five (5) feet high and have five (5) or more branches.
- (3) The tree shall be planted in a well prepared hole at the same depth as it was originally growing. All trees less than twelve (12) feet high shall be staked. All trees twelve (12) feet or more in height shall be supported by guy wires in such a way as not to injure the bark. The support shall be removed after a year.
- (4) The tree shall be kept well watered and mulched or cultivated in a two (2) foot diameter around its base to conserve moisture and as a protection from lawn mower damage.
- (5) The good health of all trees planted hereunder shall be guaranteed for one (1) year by the applicant, after which time such trees shall become the property of the City.

- (d) **Location.**

- (1) There shall be a distance of forty (40) to fifty (50) feet between terrace area trees depending upon the size of tree and other factors. Terrace trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In terrace areas less than three (3) feet wide, planting will not be permitted. Terrace area trees shall be a minimum of twenty-five (25) feet from an intersection.
- (2) Small sized trees shall be planted at least five (5) feet from driveways and large or medium sized trees shall be planted at least fifteen (15) feet from driveways.
- (3) Evergreen trees or shrubs shall not be planted in a terrace area.
- (4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within terrace areas whose growth is in excess of eight (8) inches in height above the top of the nearest curb.
- (5) Tree grates shall be provided for terrace trees surrounded by concrete by the adjacent property owner and shall be level with adjacent concrete.
- (6) Trees may *not* be planted in the terrace closer than:
 - a. Twenty (20) feet to a utility or street lighting pole.
 - b. Eight (8) feet to a fire hydrant, water stop box or gas shutoff. If possible, allow more distance than eight (8) feet.

- c. Twenty-five (25) feet to the intersection of two (2) streets from either corner measured on the property line.
- (7) New street trees shall not be planted over an existing tree stump within two (2) years of removal unless the stump is removed to a depth of four (4) feet.
- (8) The property owner has the responsibility to locate underground utilities before digging.
- (e) **Minimum Opening to Be Maintained.** Unless otherwise provided for in a written permit from the City Forester, there must be at least nine (9) square feet of open ground about the base of each tree three (3) inches in diameter one (1) foot above the ground, and for each two (2) inches of increase in such diameter there must be an increase of at least one (1) foot of open ground around each such tree.
- (f) **Permitted Species.** Only trees from the following approved listing shall be planted in a public terrace strip (between curb and sidewalk); the City Forester may permit similar breeds/hybrids not specifically listed. Trees are listed by their commercial name and grouped by suitability for various terrace strip widths. The mature height is given following the name so that consideration can be given in cases where overhead wires are present:

4 Feet +

Globe Norway Maple	16 feet
Almira Norway Maple	16 feet
Amur Maackia	20 feet
Japanese Tree Lilac	20 feet
Anise Magnolia	20 feet
Callery Pear	20 feet
Toba Hawthorne	20 feet
Lavalle Hawthorne	20 feet
Washington Hawthorne	20 feet
Rancho Sargent Cherry	25 feet
Hop Hornbeam	25 feet
Olmsted Columnar Norway Maple	30 feet
Mountain Ash	30 feet
Scanlon Red Maple	35 feet

6 Feet +

Manchurian Bird-cherry	20 feet
Frau Louise Dittman Crabapple	20 feet
Flame Crabapple	25 feet
Double Flowered Mazzard Cherry	30 feet

Sargent Cherry	30 feet
Sentry Ginkgo	25 feet
Mongolian Linden	30 feet
Wineleaf Sycamore Maple	30 feet
Tilford Red Maple	35 feet
Littleleaf Linden	40 feet
Amur Corktree	45 feet
Chinese Pearleaf Crabapple	20 feet
Ruby Red Horsechestnut	25 feet
Seneca Sugar Maple	25 feet
Rancho Littleleaf Linden	25 feet
Golden-Leaf Sycamore Maple	25 feet
Pyramidal Sycamore Maple	25 feet
Globe Blue Ash	25 feet
Pyramidal European Ash	30 feet
Manchurian Ash	30 feet
Cleveland Norway Maple	30 feet
Schwedler Norway Maple	30 feet
Pyramidal European Hornbeam	35 feet
Columnar Sugar Maple	45 feet

8 Feet +

Kobus Magnolia	20 feet
Dolgo Crabapple	30 feet
Redbug Maple	45 feet

10 Feet +

Liset Crabapple	20 feet
Shakespeare Crabapple	20 feet

- (g) **Certain Species Restricted.** No person shall hereafter plant any Catalpa, Chinese Elm, White Poplar, Lombardy Poplar, any fruit or nut tree, or any tree which, in the opinion of the City Forester, constitutes any nuisance in or upon any public street, parkway, boulevard, terrace or other public place within the City, unless he/she shall first secure written permission from the City Forester, who shall not approve any such planting if in his/her opinion, said tree will constitute a nuisance to the public or adjoining property owners or interfere with the safety of the public or the operation of any sewer or water system. The City Forester shall cause the removal of any tree planted in violation of this Subsection.

- (h) **Unlawfully Planted Trees.** Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the City Forester may be removed. The City Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the City may remove such trees, plants or shrubs and assess the costs thereof to the owner.
- (i) **Permit Requirement.**
- (1) **Permit Required.** No person except upon order of the City Forester shall plant, transplant, move, spray, brace, trim, prune, cut above or below ground, disturb, alter or do surgery on a public street or shrub in the City, or cause such act to be done by others, without first getting a written permit for such work from the City Forester as herein provided.
 - (2) **Exemptions.** No permit shall be required to cultivate, fertilize, perform minor cutting or pruning or watering of public trees or shrubs.
 - (3) **Requirements and Conditions of Permits.** If the City Forester determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this Chapter, taking into account the safety, health and welfare of the public, location of utilities, public sidewalks, driveways and street lights, general character of the area in which the tree or shrub is located or proposed to be located, type of soil, characteristics and physiological needs of the species or variety of trees or shrub, he/she shall issue a permit to the applicant upon presentation of the receipt of the City Administrator showing payment of the required fee. As a condition of granting any permit to remove the public tree or shrub, the City Forester may require that the permittee plant one (1) or more trees or shrubs in place of the one removed, and no permittee under such a conditional permit shall fail, refuse or neglect to plant trees or shrubs of the type, size and location specified in his/her permit.
 - (4) **Form, Expiration and Inspection.** Every permit shall be issued by the City Forester on forms prepared by him/her shall include a description of the work to be done and shall specify the species or variety, size, nursery grade and location of trees or shrubs to be planted, if any. Any work done under such permit must be performed in strict accordance with the terms thereof and the provisions of this Chapter. Permits issued under this Chapter shall expire six (6) months after date of issue.
 - (5) **Fee.** The fee for a permit shall be as prescribed in Section 1-3-1.

Sec. 6-4-7 Trimming.

- (a) Prior to major trimming activity involving a public tree, the permit requirements of Section 6-4-7(b) shall be complied with. Any person growing a tree, plant or shrub on any private property abutting on abutting on public streets or public places shall:

- (1) Trim them so as not be a hazard to persons using the streets or to interfere with the proper lighting of the streets.
 - (2) Treat or remove any tree, plant or shrub which the City Forester shall determine is diseased or insect-ridden or a hazard to persons using the streets.
 - (3) Remove and refrain from planting any tree, plant or shrub designated by the Wisconsin Department of Agriculture, Trade and Consumer Protection and published in its regulations to be a host or carrier of a dangerous plant disease or insect pest.
- (b) Owners of any property may arrange to have any tree, plant or shrub sprayed, trimmed or removed by the City and pay for such service at the rates established by the Common Council.
 - (c) Trees and shrubs standing in or upon any terrace, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than fourteen (14) feet. The City Forester may waive the provisions of this Section for newly planted trees if it determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.
 - (d) The necessity of the pruning may be determined by the City Forester. Trimming activity, and the cost thereof, shall be the responsibility of the City.
 - (e) Clearance from sidewalk to lower branches shall not be less than ten (10) feet. All trees standing upon private property in the City, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than ten (10) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.
 - (f) Trimming or pruning of more than two-thirds (2/3) of the crown of a public area tree shall be considered to be a major alteration and shall require a permit from the City Forester.

Sec. 6-4-8 Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs.

- (a) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.

- (c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the City Forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten (10) days of receipt of notice, to take such necessary steps, the City Forester shall order City employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands.
- (d) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the City Forester as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in Section 1-1-7 of this Code of Ordinances.

Cross Reference: Section 13-1-90.

Sec. 6-4-9 Removal of Trees and Stumps.

- (a) **Dangerous, Obstructive and Infected Trees.** Any tree or part thereof, whether alive or dead, which the City Forester shall find to be infected, hazardous or a nuisance so as to endanger the general public or other trees, plants or shrubs growing within the City, or to be injurious to sewers, sidewalks or other public improvements whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The City Forester shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the City Forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the City Forester shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the City Administrator, who shall thereupon enter such cost as a special charge against the property.
- (b) **Removal Standards.** In cutting down trees located in public and terrace areas, the tree must be removed with the root stump grubbed out, or ground out to a depth of at least nine (9) inches below grade measured in a straight line with the normal grade of sidewalk to top of nine (9) inches below grade measured as a straight line, normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil as soon

as practicable. The abutting property owner shall have a right of first refusal to keep the wood, provided such wood is not diseased.

- (c) **Private Removal.** No person, firm, organization or corporation shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place, until a permit shall have been issued by the City Forester. Such permit shall be issued only when the removal, trimming or cutting of the tree or shrub is necessary, as determined by the City Forester, because of disease, damage, hazardous condition, and/or location, or its location is such that substantial detriment is done to the property upon which the tree or shrub stands, or property abutting the same. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.

Sec. 6-4-10 Prohibited Acts.

- (a) **Damage to Public Trees.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the City Forester in the case of a terrace-area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:
- (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
 - (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
 - (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same.
 - (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
 - (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
 - (6) Cause or encourage any fire or burning near or around any tree.
 - (7) Except with a written permit from the City Forester to place or maintain upon the ground any stone, brick, cement or other impervious substance in such manner as may obstruct the free access of air or water to the roots of any tree, shrub or plant in or upon any public way or public place.
- (b) **Excavations.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said

trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a permit from the City Forester.

- (c) **Interference With Forester.** No person shall:
 - (1) Interfere with or prevent any acts of the City Forester or his/her agents while it is engaged in the performance of duties imposed by this Section.
 - (2) Refuse to permit the City Forester or his/her representative to enter upon his/her premises at reasonable times to exercise the duties imposed by this Section.
- (d) **Refusal to Abate Nuisance.** Permits any public nuisance to remain on any premises owned or controlled by him/her when ordered by the City Forester to abate such nuisance.

Sec. 6-4-11 Appeal from Determinations or Orders.

Any person who receives a determination or order under this Chapter from the City Forester and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Title 4 of this Code of Ordinances, to the Common Council within seven (7) days of receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Common Council shall, by letter, notify the party appealing the order or determination of its decision within ten (10) days after the hearing has been concluded. The Council shall file its written decision with the City Administrator.

Sec. 6-4-12 Tree Costs Chargeable to Lands.

- (a) **Assessment.** The entire cost of planting, removal, spraying, trimming or treatment of trees, shrubs and plants in front of or upon any lot or parcel of land abutting on any public way, may be chargeable to and assessed upon such lot or parcel of land.
- (b) **Account to Be Kept.** The City Forester shall keep a strict account of the cost of planting, removal, trimming or treating of any tree, shrub or plant in front of or on each lot or parcel of land abutting any public way, and prior to the 10th day of November in each year shall make a report to the City Administrator of all work done for which assessments are to be made stating and certifying the description of land, lot, parts of lots or parcels of land abutting on any public way, in which any such work shall have been done and the amount chargeable to each piece of property; the City Administrator at the time of making the annual report to the Common Council of the lots or parcels of land subject to special assessments shall include therein the lots or parcels of land so reported during the proceeding year.
- (c) **Amounts Chargeable as Lien.** The amounts so reported to the Council shall be levied on said lots or parcels of land, respectively, to which they are chargeable and shall constitute a lien thereon and shall be collected by the City. The City Forester shall advance

out of the proper fund sufficient money for doing said work and the said special assessment shall be credited to said fund of the City and shall not be diverted or used for any other purpose.

Sec. 6-4-13 Inspection of Trees.

An annual inspection by competent personnel shall be of all trees within the terrace strip along every public way within the City, and also those trees on private lands within falling distance of any public way or public place.

Sec. 6-4-14 Adoption of State Statutes.

Sections 27.09 and 86.03, Wis. Stats., are hereby adopted and incorporated herein by reference.

State Law Reference: Sections 27.09 and 86.03, Wis. Stats.